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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

JANE ROE, an individual; MARY ROE, an individual; SUSAN ROE, an individual; JOHN ROE, an individual; BARBARA ROE, an individual; PHOENIX HOTEL SF, LLC, a California limited liability company; FUNKY FUN, LLC, a California limited liability company; and 2930 EL CAMINO, LLC, a California limited liability company,

Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO, a California public entity,

Defendants.

Case No. 4:24-cv-01562-AMO

PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL

FILED CONCURRENTLY WITH PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF REQUESTING PERMISSION TO USE PSEUDONYM ON PUBLICLY FILED PLEADINGS

ASSIGNED FOR ALL PURPOSES TO THE HONORABLE ARACELI MARTINEZ-OLGUIN, COURTROOM 10

Action Filed: 03/14/2024

1 Trial Date: Unassigned

2 PLEASE TAKE NOTICE that, pursuant to local Rule 7-11 and Local Rule 79-

3 5, Plaintiffs file this Administrative Motion to Consider Whether Plaintiffs'

4 Declarations Should be Filed under Seal. Pursuant to relief sought in Plaintiffs'

5 concurrently Administrative Motion to Request Permission to Use a Pseudonym on

6 Publicly Filed Pleadings, the materials sought to be sealed by this administrative

7 motion are the true names of five Plaintiffs. Plaintiffs seek an order permitting them

8 to use pseudonyms in any publicly filed documents, including the complaint.

9 A party seeking to file materials under seal bears the burden to show

10 materials are deserving of confidentiality. (*Foltz v. State Farm Mut. Auto. Ins. Co.*,

11 331 F.3d 1122, 1135 (9th Cir.2005).) Specifically, a party must "articulate compelling

12 reasons supported by specific factual findings that outweigh the general history of

13 access and the public policies favoring disclosure." (*Kamakana v. City and County of*

14 *Honolulu*, 447 F.3d 1172, 1179 (9th Cir.2006) (internal citations omitted).)

15 Five of the Plaintiffs in this case concurrently seek an order permitting them

16 to use pseudonyms for fear of retaliatory physical harm. (See Plaintiffs Motion for

17 Administrative Relief Requesting Permission to Use Pseudonym on Publicly Filed

18 Pleadings ("Administrative Motion to Use Pseudonym"), generally.) Federal courts

19 have allowed plaintiffs to use pseudonyms for various reasons, including when

20 "identification creates a risk of retaliatory physical or mental harm." (*Does I thru*

21 *XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).)

22 Plaintiffs seek injunctive relief from the City and County of San Francisco's

23 ("City") *de facto* treatment of the Tenderloin as San Francisco's "containment zone"

24 for illegal narcotics activities and the associated crimes and injurious harms. Public

25 disclosure of their names could expose them to physical retaliation by those involved

26 in the illegal narcotics trade. Plaintiffs have a legitimate private interest, namely

27 their safety, in seeking to have their true names filed under seal.

28 In support of that motion, Plaintiffs submit declarations containing their true

1 names and describing the conditions that cause them to fear retaliatory physical
 2 harm. (Declaration of Jane Roe ("Jane Roe Dec."), ¶¶1-13; Declaration of Susan Roe
 3 ("Susan Roe Dec."), ¶¶1-7; Declaration of Mary Roe ("Mary Roe Dec."), ¶¶1-7;
 4 Declaration of John Roe ("John Roe Dec"), ¶¶1-7; Declaration of Barbara Roe
 5 ("Barbara Roe Dec."), ¶¶1-8.) Each plaintiff has expressed trepidation to move
 6 forward with their claims if her or his name is to be publicly revealed. (Jane Roe
 7 Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec., ¶7; Susan Roe Dec., ¶7; Barbara
 8 Roe Dec., ¶8.)

9 Defendant City and County of San Francisco has not agreed to stipulate to the
 10 use of pseudonyms and has instead opposed that approach. (See ECF no. 16 and
 11 accompanying declaration of Matthew D. Davis.) Thus, Plaintiffs must submit
 12 declarations in support of their request to use pseudonyms. (Civil Local Rule 7-11.)
 13 Plaintiffs have no less restrictive means to request relief to use pseudonyms, other
 14 than by submitting declarations that contain their true names. Redaction and sealing
 15 of their true names is the only sufficient means to seek the administrative relief
 16 related to their complaint.

17 Plaintiffs request that should this Court deny this administrative motion to
 18 seal Plaintiffs' declarations, then Plaintiffs be given the opportunity to withdraw the
 19 declarations that are being provisionally filed under seal. As is set forth in the
 20 declarations, some of the individual plaintiffs may decide not to remain involved in
 21 this litigation if the Court decides that their true names should be revealed in
 22 publicly filed documents. (Jane Roe Dec., ¶¶12-13; John Roe Dec., ¶7; Mary Roe Dec.,
 23 ¶7; Susan Roe Dec., ¶7; Barbara Roe Dec., ¶8.)

24 The portions of the documents sought to be sealed are:

DOCUMENT	PORTIONS TO BE FILED UNDER SEAL
Exhibit A to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal,	Plaintiff Jane Roe's true name on pages 2 and 7.

1	Declaration of Jane Roe	
2	Exhibit B to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal, Declaration of John Roe	Plaintiff John Roe's true name on pages 2 and 5.
3	Exhibit C to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal, Declaration of Susan Roe	Plaintiff Susan Roe's true name on pages 2 and 3.
4	Exhibit D to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal, Declaration of Mary Roe	Plaintiff Mary Roe's true name on pages 2 and 3.
5	Exhibit E to the Declaration of Matthew D. Davis in Support of the Motion to File Under Seal, Declaration of Barbara Roe	Plaintiff Barbara Roe's true name on pages 2 and 5.

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Respectfully submitted.

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Dated: March 21, 2024

WALKUP, MELODIA, KELLY & SCHOENBERGER

By: /S/ Matthew D. Davis
 MICHAEL A. KELLY
 RICHARD H. SCHOENBERGER
 MATTHEW D. DAVIS
 ASHCON MINOIEFAR
 Attorneys for ALL PLAINTIFFS

PROOF OF SERVICE

**Jane Roe, et al. v. City and County of San Francisco, et al.
Case No. 4:24-cv-01562-AMO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place, My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as

- PLAINTIFFS' MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- DECLARATION OF MATTHEW D. DAVIS IN SUPPORT OF MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL
- [PROPOSED] ORDER FOR PLAINTIFFS MOTION FOR ADMINISTRATIVE RELIEF TO CONSIDER WHETHER PLAINTIFFS' DECLARATIONS SHOULD BE FILED UNDER SEAL

to:

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BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

1 Participants in the case who are not registered CM/ECF users will be served by mail
2 or by other means permitted by the court rules.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct and that I am employed in the office of
5 a member of the bar of this Court at whose direction the service was made.

6 Executed on March 21, 2024, at San Francisco, California.
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Kirsten Benzien